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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,218	09/28/2001	John David Tucker	KCC-15,529	7138

7590 02/26/2003

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EXAMINER

TRAN, THAO T

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 02/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/967,218

Applicant(s)

TUCKER ET AL.

Examiner

Thao T. Tran

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This is in response to the request for consideration received on 12/13/02.
2. Claims 1-23 are currently pending in this application.

Claim Rejections - 35 USC § 102

3. In view of the prior Office Action of September 20, 2002, the rejection of claims 1-4, 12, 20-22, under 35 U.S.C. 102(e), as being anticipated by Chisholm et al. (US Pat. 6,300,405) has been withdrawn.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 9-10, 12-13, 15, 17-18, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogale et al. (US Pat. 5,346,756).

Ogale teaches a nonwoven textile material, comprising fibers; each fiber comprising 90-70 % weight of polypropylene and 10-30 % weight of ethylene-propylene copolymer, and optionally a minor amount of a diene (see col. 1, ln. 34-41, ln. 64-68; col. 2, ln. 1-12; Examples 1-8).

Ogale further teaches the textile fiber being formed into spunbond fibers (see col. 12, ln. 47-50), yarn, woven and nonwoven materials (see col. 1, ln. 12-17).

Claim Rejections - 35 USC § 103

6. In view of the prior Office Action of September 20, 2002, the rejection of claims 5-6, 8-11, 13-14, 16-19, and 23, under 35 U.S.C. 103(a), as being unpatentable over Chisholm, has been withdrawn.

7. In view of the prior Office Action, the rejection of claims 1-23, under 35 U.S.C. 103(a) as being unpatentable over Tung et al. (US Pat. 6,100,307), has been withdrawn.

8. Claims 6, 8, 11, 14, 16, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogale as applied to claims 1, 12, 20, and 22 above.

Ogale is as set forth in claims 1, 12, 20, and 22 above and incorporated herein.

Ogale is silent with respect to the textile fibers being formed into a staple fiber, a knit fabric, and an absorbent article comprising the nonwoven fabric. However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have employed Ogale's textile fibers to form staple fibers, knit fabrics, or absorbent articles. This is because Applicants have not disclosed that the products formed by the fibers are critical in the invention; and it has been known within the skill in the art that textile fibers would be used in forming knit fabrics, staple fibers, or absorbent articles; as equally well as forming spunbond fibers, yarns, woven and nonwoven materials, as taught by Ogale.

Response to Arguments

9. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 703-306-5698. The examiner can normally be reached on Monday-Friday, from 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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February 24, 2003



James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700